

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

DAVON REYNOLDS EDWARDS,

Plaintiff,

Case No. 18-cv-10536  
Hon. Matthew F. Leitman

v.

COMMISSIONER OF  
SOCIAL SECURITY,

Defendant.

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**ORDER (1) ADOPTING RECOMMENDED DISPOSITION OF REPORT  
AND RECOMMENDATION (ECF #10) AND (2) DISMISSING  
COMPLAINT (ECF #1) WITHOUT PREJUDICE**

In this action, Plaintiff Davon Reynolds Edwards challenges the denial of his application for disability income benefits. (*See* Compl., ECF #1.) Edwards, who is represented by counsel, filed his Complaint on February 14, 2018. (*See id.*) However, there is no indication that Edwards ever served his Complaint upon Defendant Commissioner of Social Security.

On May 18, 2018, the assigned Magistrate Judge issued an order that required Edwards to show cause why the Court should not dismiss his Complaint due to his failure to serve the Commissioner. (*See* ECF #6.) Edwards responded to that order by asking for an extension of time to serve his Complaint. (*See* ECF #7.) The Magistrate Judge granted that extension and required Edwards to serve his

Complaint on the Commissioner by no later than July 4, 2018. (*See* ECF #8 at Pg. ID 24.)

It does not appear that Edwards complied with the Magistrate Judge's order or that he ever served his Complaint upon the Commissioner. Accordingly, on August 8, 2018, the Magistrate issued a second show cause order that again required Edwards to show cause why the Court should not dismiss his Complaint. (*See* ECF #9.) Edwards did not respond to that show cause order. The Magistrate thereafter issued a report and recommendation in which he recommended that the Court dismiss Edwards' Complaint under Federal Rule of Civil Procedure 4(m)<sup>1</sup> due to lack of service (the "R&R"). (*See* ECF #10.) At the conclusion of the R&R, the Magistrate Judge told Edwards that if he wanted to seek review of his recommendation, Edwards needed to file specific objections with the Court within fourteen days. (*See id.* at Pg. ID 32.)

Edwards has not filed any objections to the R&R. The failure to object to an R&R releases the Court from its duty to independently review the matter. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985). In addition, the failure to file objections to an R&R waives any further right to appeal. *See Howard v. Sec'y of Health and*

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<sup>1</sup> In relevant part, Federal Rule of Civil Procedure 4(m) provides: "If a defendant is not served within 90 days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be made within a specified time."

*Human Servs.*, 932 F.2d 505 (6th Cir. 1991); *Smith v. Detroit Fed'n of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). Finally, Edwards has neither responded to the Magistrate Judge's August 8, 2018, show cause order nor provided any proof to the Court that he ever served his Complaint upon the Commissioner.

Accordingly, because Edwards has not filed an objection to the R&R, and because he has not complied with the Magistrate Judge's orders to serve his Complaint on the Commissioner, **IT IS HEREBY ORDERED** that the Magistrate Judge's recommendation to dismiss Edwards' Complaint pursuant to Federal Rule of Civil Procedure 4(m) is **ADOPTED** and Edwards' Complaint (ECF #1) is **DISMISSED WITHOUT PREJUDICE**.

s/Matthew F. Leitman

MATTHEW F. LEITMAN

UNITED STATES DISTRICT JUDGE

Dated: October 15, 2018

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on October 15, 2018, by electronic means and/or ordinary mail.

s/Holly A. Monda

Case Manager

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